



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 25, 1996

Mr. John T. Richards
Assistant General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR96-0075

Dear Mr. Richards:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37581.

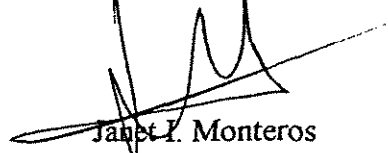
Although you mention that the requester seeks "copies of the paperwork used in hiring the Network Manager position during the Fall of 1994," you ask for a determination regarding only one record submitted for our review. You contend that the record is a "test item" excepted from disclosure under section 552.122 of the Government Code. We assume all the remaining information has been or will be released.

In Open Records Decision No. 626 (1994), this office concluded the term "test item" in section 552.122 generally includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated. An evaluation does not necessarily constitute a test, however, simply because it is labeled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. Open Records Decision No. 626 (1994) at 6. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *Id.* We now consider the particular information at issue here.

You have submitted a copy of a "Test For Network Manager II Position," which you seek to withhold under section 552.122. Each of the questions presented in the examination appear to test the applicant's knowledge in a particular area. The examination questions elicit responses which require the input of the employee to complete. Moreover, the "test form" does not appear not to be generally available to department employees. You may therefore withhold the Network Manager II examination under section 552.122 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 37581

Enclosures: Submitted documents

cc: Mr. David R. Duguay
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(w/o enclosures)